

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI  
SOUTHERN DIVISION**

**KEVIN EUGENE WELLS**

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**PLAINTIFF**

**v.**

**Civil No. 1:20cv291-HSO-JCG**

**WELLS FARGO BANK, N.A.**

**DEFENDANT**

**ORDER DISMISSING CIVIL ACTION WITHOUT PREJUDICE**

This matter is before the Court sua sponte for consideration of Plaintiff Kevin Eugene Wells's failure to respond to this Court's Order [8] to Show Cause. For the reasons that follow, the Court finds that this civil action should be dismissed without prejudice.

On June 7, 2021, United States Magistrate Judge John C. Gargiulo provisionally granted Plaintiff leave to proceed *in forma pauperis* in this action under 28 U.S.C. § 1915(a). See Order [6] at 1-2. On the same date, the Magistrate Judge entered an Order [8] requiring Plaintiff to show cause why this lawsuit should not be dismissed in light of two previous lawsuits filed by Plaintiff involving the same Defendant and relating to the same incident in April 2018. The first case reached a settlement on December 10, 2019. See *Wells v. Wells Fargo Bank, N.A.*, No. 1:18cv304-HSO-JCG, J. [67] at 1 (S.D. Miss. Dec. 11, 2019). Plaintiff's second case was dismissed after he failed to respond to an order requiring him to show cause why the case should not be dismissed in light of the settlement of the first

case. *See Wells v. Wells Fargo Bank, N.A.*, No. 1:19cv631-KS-RHW, Order [9] at 1 (S.D. Miss. Jan. 30, 2020).

In the present case, Plaintiff was clearly cautioned by the Magistrate Judge that failure to respond to the Order to Show Cause by June 23, 2021, would result in dismissal of this lawsuit for failure to prosecute and obey Orders of the Court under Federal Rule of Civil Procedure 41(b) and the Court's inherent authority to dismiss an action sua sponte. *See* Order [8] at 1-2 (citing Fed. R. Civ. P. 41(b); *Link v. Wabash R.R.*, 370 U.S. 626, 629-30 (1962)). As of this date, Plaintiff has failed to respond, and the Court finds that dismissal without prejudice is warranted for the reasons stated in the Magistrate Judge's Order [8] to Show Cause. *See id.*

**IT IS, THEREFORE, ORDERED AND ADJUDGED** that, this case is **DISMISSED WITHOUT PREJUDICE**. A separate final judgment will be entered pursuant to Federal Rule of Civil Procedure 58.

**SO ORDERED AND ADJUDGED**, this the 23<sup>rd</sup> day of June, 2021.

*s/ Halil Suleyman Ozerden*  
HALIL SULEYMAN OZERDEN  
UNITED STATES DISTRICT JUDGE